D.T.E. 02-48

Petition of Boston Gas Company d/b/a KeySpan Energy Delivery New England for approval of service agreements between KeySpan Energy and Distrigas of Massachusetts LLC, pursuant to G.L. c. 164, § 94A

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I. INTRODUCTION

On August 23, 2002, Boston Gas Company d/b/a Keyspan Energy Delivery New England ("KeySpan" or "Company"), pursuant to G.L. c. 164, 94A, submitted a petition to the Department of Telecommunications and Energy ("Department") for approval of service agreements between KeySpan and Distrigas of Massachusetts, LLC ("DOMAC). The Department docketed the matter as D.T.E. 02-48.

On October 8, 2002, pursuant to notice duly issued, the Department conducted a public hearing to afford interested persons the opportunity to comment on the Company's proposal. The Department granted intervenor status to the Division of Energy Resources ("DOER"), and limited participant status to Bay State Gas Company. On November 4, 2002, the Department held an evidentiary hearing. The Company presented the testimony of Elizabeth Danehy, director of customer choice and gas resource management at KeySpan. DOER neither presented, nor cross-examined, witnesses. Neither the Company nor DOER submitted briefs. The evidentiary record consists of 21 exhibits.

II. DESCRIPTION OF THE COMPANY'S PROPOSAL

The Company proposed an arrangement with DOMAC that is comprised of three contracts (Exh. K-1, at 3). These contracts are: (1) a long-term supply contract (FLS142) to meet the winter refill requirements of its liquid natural gas ("LNG") facilities; (2) a long-term storage refill contract (SS-1 refill) used to meet KeySpan's peaking needs; and (3) an amendment to its seasonal refill agreement with DOMAC (FLS129), which was previously approved by the Department in Boston Gas Company, D.T.E. 00-80 (2001) (id.).

Under contract FLS142, the Company may purchase monthly volumes, not to exceed 1,000,000 MMBtu in each contract year, with a contract year being the period from November 1 through the following March 31 (Exh. K-1, at 4). This agreement, which remains in effect through March 31, 2004, provides for winter season refill of KeySpan LNG facilities located throughout New England (id.). These include: the Lynn, Salem, and Dorchester, Massachusetts facilities in the Boston Gas service territory; the South Yarmouth, Wareham, Tewksbury, and Westford, Massachusetts LNG facilities in the Colonial Gas service territory; the Essex Gas LNG facility in Haverhill, Massachusetts; the Energy North LNG facilities in Tilton, Manchester, and Concord, New Hampshire; and KeySpan's storage space in the Providence, Rhode Island LNG facility (id.). The price payable by KeySpan is a negotiated rate that consists of an annual call payment, as well as a variable commodity charge equal to the NYMEX natural gas futures settlement price on the last day of trading for the month in which the gas was purchased (id.).

The Company indicated that FLS142 provides price protection for KeySpan because the call payment may not exceed the call payment cap in DOMAC's Federal Energy Regulatory Commission ("FERC") approved rate schedule FLSS, and the average commodity rate over the contract term is capped at the average of DOMAC's FERC-approved rate schedule FLSS over the contract term (id.). The Company stated that it will allocate the price of the contract among its four regulated natural gas companies: Boston Gas Company, Colonial Gas Company, Essex Gas Company, and Energy North Natural Gas, Inc. (id.). The Company further stated that it will allocate the cost of the contract among the natural gas companies based upon each company's forecasted design season usage as a percentage of the total forecasted design season usage (Exh. D.T.E. 1-7). To allocate cost, each company's forecasted design season usage percentage will be multiplied by the total demand cost to determine the amount paid by each company (id.).

The second contract, the SS-1 refill agreement, is for two years commencing on November 1, 2002 (Exh. K-1, at 5). This contract allows KeySpan to purchase up to 1,000,000 MMBtu of LNG each year for storage at the DOMAC facilities in Everett, Massachusetts (id.). Purchases are made on November 1 of each year, and KeySpan can then withdraw volumes under its storage service agreement with DOMAC, in vapor or liquid form, as needed throughout the year to meet its sendout requirements (id.). Under this agreement, the price payable by the Company is a negotiated rate for the months of April through October preceding each contract year (id.). KeySpan stated that this agreement provides price protection for the Company because the average commodity rate over the contract term is capped at the average of DOMAC's FERC-approved rate schedule FLSS over the contract term (id.)

In Boston Gas Company, D.T.E. 00-80 (2001), the Department approved a seasonal liquid refill agreement (FLS129) between the Company and DOMAC. In the instant petition, the Company seeks approval of an amendment to that agreement (Exh. K-1, at 3, 10). The Company stated that it has agreed with DOMAC to eliminate the following language from section 5.10 of its FLS129 agreement:

> In the event that, during the period April through October of any Contract Year, Seller makes firm sales for resale of LNG in liquid form to a third party for delivery to any LNG storage facility without liquefaction capability at a lower average delivered unit price than the base commodity price payable by Boston Gas, then, for that contract

> year, the base commodity price payable by Boston Gas shall be reduced to the price payable by such third party (id. at 10-11).

The Company stated that in exchange for its agreement to delete the language, DOMAC agreed to grant the Company beneficial contract terms including certain price reductions (id. at 11).

III. STANDARD OF REVIEW

In evaluating a gas utility's resource options for the acquisition of commodity resources as well as for the acquisition of capacity under Section 94A, the Department examines whether the acquisition of the resource is consistent with the public interest. Commonwealth Gas Company, D.P.U. 94-174-A at 27 (1996). In order to demonstrate that the proposed acquisition of a resource that provides commodity and/or incremental resources is consistent with the public interest, an LDC must show that the acquisition (1) is consistent with the Company's portfolio objectives, and (2) compares favorably to the range of alternative options reasonably available to the Company and its customers, including releasing capacity to customers migrating to transportation, at the time of the acquisition or contract renegotiation. Id.

In establishing that a resource is consistent with the company's portfolio objectives, the company may refer to portfolio objectives established in a recently approved resource plan or in a recent review of supply contracts under G.L. c. 164, § 94A, or may describe its objectives in the filing accompanying the proposed resource. Id. In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the overall supply portfolio. Id. at 28. As part of the review of relevant price and non-price attributes, the

Department considers whether the pricing terms are competitive with those for the broad range of capacity, storage and commodity options that were available to the LDC at the time of the acquisition, as well as with those opportunities that were available to other LDCs in the region. Id.. In addition, the Department determines whether the acquisition satisfies the LDC's non-price objectives including, but not limited to, flexibility of nominations and reliability and diversity of supplies. Id. at 29.

IV. ANALYSIS AND FINDINGS

The Company's objectives, in entering into these contracts with DOMAC, are to meet peak season requirements in excess of firm pipeline entitlements in a least-cost fashion and to maintain system pressures (Exh. K-1, at 6). The FLS142 Agreement provides for the winter season refill requirements of the KeySpan LNG facilities from November through March of each contract year to ensure that gas is available when needed during the heating season (id. at 4). The SS-1 Refill provides for purchases of LNG for storage at the DOMAC facilities in Everett on November 1 of each year (id. at 6). The Department finds that these Agreements are designed to meet the Company's seasonal refill and storage requirements at a least-cost alternative and are consistent with the Company's portfolio set forth in KeySpan Energy Delivery New England, D.T.E. 01-105. Accordingly, the Department finds that the Company's FLS142 and SS-1 refill contracts are consistent with the Company's portfolio objectives.

In determining whether a gas supply or capacity contract compares favorably to the range of alternative options reasonably available, the Department must consider both price and non-price attributes as part of a comprehensive assessment of the proposed contract.

D.P.U. 94-174-A, at 27. For both the FLS142 and SS-1 refill agreements, the Company negotiated a pricing structure based on the NYMEX index and considered DOMAC the best situated geographically and, given its size, the most capable supplier providing the level of service required by the Company (Exh. K-1, at 4, 6). The Department finds that the Company adequately evaluated the price and non-price factors of the Agreement and the contribution of those factors to the strength of KeySpan's overall portfolio. Accordingly, the Department finds that KeySpan selected a resource that compares favorably to the range of alternative options reasonably available to the Company.

Regarding the amendment of the Company's summer liquid refill agreement (FLS129) originally approved by the Department in Boston Gas Company, D.T.E. 00-80, the Department recognizes that the Company was able to obtain beneficial contract terms, including certain price reductions. Since both the FLS142 and SS-1 refill agreements are consistent with the Company's portfolio objectives and compare favorably to the range of alternative options reasonably available to the Company and its customers, the Department finds that KeySpan's acquisition of these resource is consistent with the public interest, and, therefore, these agreements are approved. The Department also finds that the amendment to the FLS129 agreement is beneficial to the Company and its ratepayers and is therefore approved.

V. ORDER

Accordingly, after due notice, hearing, and consideration, it is

ORDERED: That the gas supply agreements between KeySpan Energy Delivery New England and Distrigas of Massachusetts filed on August 23, 2002 are hereby approved.

By Order of the Department,

Paul B. Vasington, Chairman

James Connelly, Commissioner

W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).